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7 Attorneys for Defendants M3T CORP.,
8 a California corporation, BENE WEST, INC.,
9 a California corporation, COMBEN CORP.,
10 a California corporation, NABEN CORP.,
11 a California corporation, PASSBEN
12 CORPORATION, a Nevada corporation,
13 VEBEN CORP., a Nevada corporation,
14 WALBEN CORP., a California corporation,
15 and MIRANDO LAUTO, a.k.a. NANDO LAUTO

16
17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT - San Francisco**
19

20 BENETTON U.S.A. CORPORATION, a
21 Delaware corporation

22 Plaintiff,

23 vs.

24 M3T CORP., a California corporation,
25 BENEWEST, INC., a California corporation,
26 COMBEN CORP., a California corporation,
27 NABEN CORP., a California corporation,
28 PASSBEN CORPORATION, a Nevada
corporation, VEBEN CORP., a Nevada
corporation, WALBEN CORP., a California
corporation, and MIRANDO LAUTO, a.k.a.
NANDO LAUTO, an individual, and DOES
1 through 10, inclusive,

Defendants.

CASE NO. CV10-3843 JCS

Assigned to: Magistrate Joseph C. Spero
Courtroom: A

**APPLICATION OF DEFENDANTS'
COUNSEL TO APPEAR
TELEPHONICALLY AT HEARING OF
PLAINTIFF'S RIGHT TO ATTACH
ORDER; DECLARATION OF PAUL M.
KELLEY IN SUPPORT THEREOF**

Hearing Date: November 19, 2010
Hearing Time: 9:30 a.m.
Courtroom: "A"

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Counsel for all defendants makes application to appear telephonically at the hearing of Plaintiff's Application for Right To Attach Order. The request is made due to a medical condition of defendants' counsel, Paul M. Kelley, resulting from a July 18, 2010, and subsequent surgery on September 3, 2010. The accident resulted in three broken vertebrae (C-2

1 T-5, and T-6. The fractures of T-5 and T-6 required surgery. In the surgery, 20 screws and
 2 approximately 30" of rods were placed in Mr. Kelley's back. The surgeon anticipates that it will
 3 take until approximately February of 2011 for the screws to fully set, and while the screws set,
 4 has advised Mr. Kelley that he may not lift anything "heavier than a coffee cup." Carrying the
 5 files necessary for this hearing from Los Angeles to San Francisco would exceed the "coffee
 6 cup" standard. As a result it is requested that Mr. Kelley be permitted to attend the and
 7 participate in the hearing telephonically.

8 DATED: November 12, 2010

DONFELD, KELLEY & ROLLMAN

9
 10 By: 

Paul M. Kelley, Attorneys for Defendants M3T
 CORP., a California corporation, BENE
 WEST, INC., a California corporation,
 COMBEN CORP., a California corporation,
 NABEN CORP., a California corporation,
 PASSBEN CORPORATION, a Nevada
 corporation, VEBEN CORP., a Nevada
 corporation, WALBEN CORP., a California
 corporation, and MIRANDO LAUTO, a.k.a.
 NANDO LAUTO

16 **DECLARATION OF PAUL M. KELLEY**

17 I, Paul M. Kelley, declare:

18 1. I am the attorney for all named defendants in the matter entitled *Benetton U.S.A.*
 19 *Corporation v. M3T etc. et al*, Case No. 3:10-CV-03843-JCS in the United States District
 20 Court, Northern District of California. I have first-hand knowledge of the following facts and
 21 would and could testify competently thereto if called upon to do so.

22 2. On July 18, 2010 I was in a bicycling accident in which I suffered fractures to the
 23 C-2, T-5 and T-6 vertebrae. The C-2 fracture was non-displaced and has been treated by
 24 immobilization in a neck brace. I am optimistic that the doctor will have the neck brace
 25 removed when I next see him on November 15, 2010.

26 3. The T-5 and T-6 fractures required surgical intervention. That surgery was
 27 conducted on September 3, 2010. Among other things, during the surgery 20 screws and 2
 28 titanium rods (aggregate length approximately 30 inches) were placed in my spine from T-1

1 through T-10. The doctor, Patrick Johnson, has informed me that it will take approximately six
 2 months (February of 2011) for the screws to fully set. I have been instructed that during that
 3 period I should do no bending, lifting or twisting. Particularly with respect to Lifting, I have
 4 been instructed by Dr. Johnson's staff that I should lift "nothing heavier than a coffee cup"

5 4. My office is in Los Angeles, where the individual defendant Nando Lauto resides,
 6 and where all of the corporate defendants are based. I am concerned that the trip to San
 7 Francisco for this hearing will require carrying and lifting of materials well in excess of the
 8 weight of a coffee cup. As a result I request that the court permit me to appear telephonically at
 9 the hearing of plaintiff's Application for a Right to Attach Order.

10 5. I have discussed this request with plaintiff's counsel, Rodrigo Salas, and he has
 11 indicated that he has no objection to my appearing telephonically.

12 I declare under penalty of perjury, under the laws of the State of California, that the
 13 foregoing is true and correct.

14 EXECUTED this 12th day of November, 2010, at Los Angeles, California.

15
 16 
 17 Paul M. Kelley

18 IT IS HEREBY ORDERED that Mr. Kelley shall be on phone standby on November 19, 2010, beginning
 19 at 9:30 a.m., and await the Court's call. The Court will initiate the phone contact.
 20 Dated: November 15, 2010

